

Message Text

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PAGE 01 BONN 06235 191310Z

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ACTION EUR-25

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FM AMEMBASSY BONN

TO SECSTATE WASHDC 1875

USMISSION BERLIN

INFO AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

C O N F I D E N T I A L BONN 06235

E.O. 11652: GDS

TAGS: PGOV, WB, WB, GW, GE, UR

SUBJECT: BRUECKMANN FOLLOW-UP

REF: (A) BERLIN 631; (B) BONN 5992

1. AS PER REF A, UK REP (CROMARTIE) MADE A PITCH AT APRIL 17 TRIPARTITE MEETING FOR PRE-EMPTIVE ALLIED ACTION IN BERLIN VIS-A-VIS HERZ/KORBER TO ENSURE THAT IF THE KAMMERGERICHT WERE TO TAKE A NEW DECISION IN THE BRUECKMANN CASE, IT WOULD NOT BE DONE IN A WAY WHICH WOULD WEAKEN THE ALLIED POSITION AGAINST ANY EVENTUAL SOVIET PROTEST. CROMARTIE, WHO SAID HE HAD HAD NO FCO VIEWS YET, NOTED THAT BRUECKMANN'S LAWYERS HAVE APPLIED TO THE KAMMERGERICHT FOR A NEW DECISION ON BASIS OF SECTION 9 OF THE 1953 LAW ON INNER-GERMAN LEGAL ASSISTANCE (WHICH REQUIRES NEW EVIDENCE TO REOPEN A CASE).

2. THE FRENCH REP (PAYE) SAID HE HAD NOT HAD A REPORT FROM HIS MISSION IN BERLIN, BUT THAT HE PERSONALLY WOULD VIEW WITH ALARM A REOPENING OF THE BRUECKMANN CASE BY THE KAMMERGERICHT SOLELY ON THE GROUNDS OF THE FEDERAL
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PAGE 02 BONN 06235 191310Z

CONSTITUTIONAL COURT DECISION. BUT, HE SAID, HE HAD

HEARD THE KAMMERGERICHT WAS UNLIKELY TO ACT IN ANY CASE UNTIL A DECISION WAS REACHED ON THE BRUECKMANN APPEAL CURRENTLY BEFORE THE EUROPEAN COMMISSION ON HUMAN RIGHTS IN STRASBOURG. THIS, PAYE BELIEVED, WOULD LIKELY NOT OCCUR UNTIL LATE MAY AND MIGHT GIVE ALLIES, SENAT, AND FRG MORE TIME TO CONSIDER CASE.

3. CROMARTIE NOTED THAT A STRASBOURG DECISION AGAINST ZULIEFERUNG OF BRUECKMANN MIGHT ALSO PROVIDE ADDITIONAL "NEW EVIDENCE" FOR KAMMERGERICHT IN ITS SEARCH FOR RATIONALE FOR NOT HANDING OVER BRUECKMANN TO GDR AUTHORITIES. IT WAS AGREED TO RESUME THE DISCUSSION WHEN ALL HAD REPORTS FROM BERLIN, AND ALSO TO REQUEST MISSIONS' ASSESSMENTS OF POSSIBLE EFFECTS OF STRASBOURG COMMISSION FINDINGS.
HILLENBRAND

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